

Shadow Report

on the UN Convention on the Elimination of All Forms of Discrimination Against Women

Prepared by

The Korean Council

for the Women Drafted for Military Sexual Slavery by Japan

July 2009

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on the
**UN Convention on the Elimination of All Forms of
Discrimination Against Women**

**Japan's Violation of the Convention and Responsibility
Regarding 'Comfort Women' Issue**

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Executive Summary

The Korean Council for the Women Drafted for Military Sexual Slavery by Japan is an organization established in 1990 operating with the aim to settle the issue raised by Japanese military sexual slavery. This is a representative case of violence against women during wartimes as well as a systematic sex crime that have no paralleled in history. The issue of Japan's military sexual slavery is an important case that must be resolved not only in order to recover the victims' dignity and their human rights but also to prevent such tragedy relapsing in the future. The Korean Council sends this report with anticipation of further progressed outcome in solving such problem in the coming 44th Committee for the Elimination of Discrimination Against Women (CEDAW) session.

In 1992, the request for the Japanese Government's apology and compensation was submitted to the UN Human Rights Commission followed by producing testimony at the Sub-Commission by assistance from the victims in August. These contributions exposed the crime of Japanese military sexual slavery, which had been concealed for fifty years, to the UN and to the international society. Since then, the Korean Council for the Women Drafted for Military Sexual Slavery by Japan and Japanese women organizations, along with many NGOs raised the issue to the UN Human Rights body and each UN agencies and due to the concern and support from international human rights organizations such as the UN Human Rights Committee and CEDAW, there has been gradual success.

First, in April 1996, UN Special Rapporteur on Violence against Women by Radhika Coomaraswamy was adopted which resulted in a recommendation to the Japanese Government to acknowledge the fact that the Japan's military sexual slavery was in violation of its obligations under international law. The report insists that Japan accept its legal responsibility, pay compensation to individual victims, give official apology and punish perpetrators involved in the recruitment and institutionalization of the military sexual slavery. Furthermore in 1998, a Special Rapporteur on Systematic rape, sexual slavery and slavery like practices during armed conflict by Gay J. McDougall was adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. This report yet again confirmed that Japan's sexual slavery system was clearly in violation of international law and also that Japanese Government has the obligation to compensate the damages and also has the duty to punish perpetrators.

During the course of this, the international human rights NGO and the Women's Organizations endeavored together along with various suggestions and recommendations from the UN such as the CEDAW, CESCR (Committee on Economic, Social and Cultural Rights), CCPR (Human Rights Committee), CAT (Committee Against Torture) and the Universal Periodic Review of Human Rights Council were expressed towards the Government of Japan.

In 1985, Japan ratified to the Conventions of the CEDAW. CEDAW has given attention to the Japan's military sexual slavery problem since the early 1990s. The Japanese Government, however, has not fulfilled their responsibility over this issue till now. The Committee recommended in the last session of 2003, the Sate party

endeavor to find a lasting solution for the matter of “wartime comfort women.” However, according to the sixth Government report submitted by the Japanese Government ahead of the forthcoming 44th session, the Japanese Government showed no change of their grounds but only makes a brief reference about the Asian Women’s Fund and expresses exerted efforts. The Asian Women’s Fund is funded by private donations and not public financial support. It has been said clearly by the reports of Radhika Coomaraswamy and Gay J. McDougall that this fund by no means can be a replacement of an official and legal compensation. Instead it was recommended to seek for an alternative solution. Above all, the fund is not based on legal responsibility, many comfort women have rejected these payments and continue to seek an official apology and compensation and expect this realized as soon as possible. The ILO Committee of Experts on the Application of Conventions and Recommendations also show concern about the nature of the fund and is repeatedly recommending the Japanese Government to find the ways and means to compensate the victims in a manner that will meet their expectations.

Up till now, the Japanese Government holds a position denying the fulfillment of duties for the thorough investigation of the related matters and also rejects to provide legal compensation, an official apology or punishing the perpetrators. The disappointment amongst those in the international community and the UN was worsened by the promotion of distorted history textbooks and the elimination of the matter as a whole in the Japanese education system. Moreover, the members of cabinets’ constant denials and their utterance of defamation of the victims make one question the attitude of Japanese Government as UN Human Rights Council Member State and as a nation that ratified the Conventions of CEDAW.

Please reconfirm that the Japanese Government’s above shown features amounts to clear violation of Articles 2, 3, 5, 6, 10 of the Women’s Convention and also violation of the General Recommendation No. 19. We lodge this report with the hope that the Committee would request strong orders towards the Japanese Government to fulfill the responsibilities at a soonest time when at least one more victim is alive amongst very little surviving.

Progress made so far regarding the matters of the Japanese military sexual slavery --- Towards the centre of the international society

In 1991, the victims, the so called “comfort women” who were mobilized as sexual slaves for Japanese Military during the second world war, broke the silence that surrounded these crimes half a century on. The victims continuously cried out about the crimes committed against them, and the related evidence that was revealed forced the Japanese Government to step back from previous statements of complete denial and to finally admit the involvement of the Japanese military. However the Japanese Government still fails to fulfill the duties of a thorough investigation of the matter and also rejects all legal responsibilities.

The efforts of the victims and women to settle the matter of “comfort women” through the UN Human Rights Mechanisms started in 1992 by appealing unto the UN Human Rights Commission and still are currently ongoing. Through these efforts, in 1996 Ms Radhika Coomaraswamy’s “Report on the Special Rapporteur on Violence Against Women, Its Causes and Consequences” was adopted and in 1998, the Final report on Systematic rape, sexual slavery and slavery like practices during armed conflict, submitted by Special Rapporteur Ms. Gay J. McDougall was adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. These reports reconfirmed the Japanese Government’s legal obligations and duties to prosecute the perpetrators responsible for the matter.

Other than these efforts, up till recent, there are continuous recommendations made to the Japanese Government by almost all UN bodies including the Working Group on Contemporary Forms of Slavery, CESCR, CCPR, CAT, CEDAW and UPR HRC to fulfill their obligations.

In particular, at the last UPR examination held last year of May, countries including France, Netherland, China, North and South Korea and Philippine questioned the responsibilities of Japan and furthermore, in the Government report examination done in last year of October, CCPR also confirmed Japanese Government’s legal responsibility over the military sexual slavery and was also recommended to apologize. Moreover, the CAT concluded that the following report submitted regarding the 2007 report after Japanese consideration was insufficient. In May 2009, the Japanese Government was requested to provide further additional information and also demanded management of the solution about the failure to prosecute the perpetrators who are responsible and the re-traumatization of the victims.

Recently, it is not only the UN that demands the Japanese Government to settle the issue of “comfort women”, but each nations’ assembly has also demanded to adopt the resolution. In July 30th 2007, the Resolution to apologize (H.Res. 121) was unanimously adopted by the House of Representatives of the US, which was followed by resolutions adopted by Canada, Netherland and the EU Parliament to demand official apologies, acknowledgment of responsibility and correctness in education of history.

Through such movement, in 2008 Korean National Assembly also adopted a resolution and reassured to resolve the issue to remedy the impaired reputations of the victims. Furthermore, as another victim of the Japanese military’s sexual exploits, the Taiwanese National Assembly also adopted a resolution.

Moreover, same positions are being affirmed by city assemblies of each nation. In March 2009, city assemblies of Ryde and Strathfield in Australia adopted a resolution to demand Japanese Government to resolve the issue of “comfort women” in the space of a week.

Resolutions adopted within Japan in various cit assemblies are worth providing more attention. Starting with the municipal assembly of Takarazuka in March 2008, other cities such as Kiyose, Sapporo, Hukuoka, Osaka Mino, Tokyo Mitaka and Tokyo Koganei adopted resolutions to demand the Japanese Government to deal with the

issue more sincerely. Similar conclusions are expected from other cities in Japan in time.

Japanese Government in Violation to the Women's Convention regarding the military sexual slavery

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 5

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

...

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

...

Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

...

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

...

- **Failure to Redress Through Legislation and/or Administration**
 - A. **Failure to prosecute and punish perpetrators**

Prosecution and punishment of perpetrators involved in the recruitment and institutionalization of the Japanese military sexual slavery has not been accomplished despite it being 64 years since the Second World War was brought to an end. Punishing perpetrators is the first fundamental step to settle the issue by clarifying the matter of responsibility. It also has an important function of highlighting the unpunished violence against women in war and conflict.

Sexual violence under armed conflict has already been spoken to be crime against international law by the Rome Statute of the International Criminal Court and the necessity of punishment for such crime is also being negotiated by the international community. In 1995, the Beijing Declaration and Platform for Action, Fourth World Conference on Women request the Japanese Government to ‘take action to investigate and punish members of the police, security and armed forces and others who perpetrate acts of violence against women, violations of international humanitarian law and violations of the human rights of women in situations of armed conflict’.¹ Furthermore, in 1996, a recommendation was made through the Special Rapporteur on Violence against Women, Radhika Coomaraswamy, to ‘identify and punish, as far as possible, perpetrators involved in the recruitment and institutionalisation of comfort stations during the Second World War.’² Consequently in 1998, Gay J. McDougall’s report made a recommendation that ‘it is incumbent upon the United Nations to ensure that Japan fully satisfies its obligation to seek out and prosecute all

those responsible for the “comfort stations” who remain alive today’ and to ‘assist States in any way in the development of legislation to allow such prosecutions in their jurisdictions,’³ clearly revealing that Japanese Government is guilty of criminal charges. In 2000, the judges of The Women’s International War Crimes Tribunal for the Trial of Japan’s Military Sexual Slavery were made up of eminent international law experts from around the world and in the final judgment, perpetrators were found guilty of individual and superior criminal responsibility for Japanese military sexual slavery. Despite it being a civilian tribunal, it marked an important turning point for judgment and legal consideration of the issue.

However, since the victims’ Bill of indictment did not get accepted by the Tokyo district public prosecutor’s office in 1994, the Japanese Government continues to fail to fulfill the obligations under international law and order. The Japanese Government’s position of not inquiring into the true state of the crime of military sexual slavery which was operated nationally and systematically is in violation of series of legal responsibilities of Article 2 of the CEDAW Convention. If Japanese Government continues to fail to prosecute the perpetrators who are responsible, not only will the practice of constitutive discrimination against women be endorsed in Japan, but also repeat a vicious circle of failing to punish the violence against women during war in the international society.

B. Dismissal of cases

The Japanese judicature repeatedly dismissed cases for the victims of Japanese military sexual slaves. The cases that were held after breaking a long silence of victims from the military sexual slavery demanded Japanese Government’s official apology and legal compensation. However these cases were all ultimately rejected and dismissed by completely denying the actual casualties or even when they do admit the facts, the excuses of legal prescription being limited or lack of establishment of international legal grounds on obligations to compensate. After instituting a lawsuit in 1992, there were various launched and dismissed appeals. These cases often lasted for periods up to a decade and during this protracted process it was inevitable that the mental distress each applicant suffered only worsened. Despite the Conventions and compliance to the international law and regulations set under the Japanese constitution, there have been unilateral decisions made by the Japanese judicature which resulted in victims suffering injustice.

If there are existing possibilities of victims’ requests and appeal being rejected due to Japanese domestic application of international law, then the legal consideration of this area and the practical solution must be attained instead. As it is known by the Convention, it is an obligation to relieve the victims from suffering and discrimination by amending and improving laws and policies at national dimension. However, during the course of lawsuits, the Japanese Government neglected their promise to make efforts to settle the issue of military sexual slavery and instead acted contrary by denying national responsibility. The Japanese judicature expropriated most of the Japanese Government’s assertion. During the long period of lawsuits, instead of making efforts to improve such condition, the Japanese Government rather intensified the discrimination by being aligned with the logics that was defending the perpetrators and making an underdeveloped legal analysis and fixated precedents to disregard individual human rights.

Since 1996, the ILO CEACR (Committee of Experts on the Applications of Conventions and Recommendations) reported the Japanese military sexual slavery as a classified sexual slavery case that is in violation to the Forced Labor Convention (No.29) and observed closely the cases regarding this issue. The CEACR requested the Japanese Government to provide relevant information during the course of observing cases regarding this issue and recommended the Japanese Government to find means to compensate the victims in a manner that will meet their expectations as soon as possible. Not only that, above mentioned reports of Radhika Coomaraswamy and Gay J. McDougall has also clearly noted equivalent recommendations but the position of Japanese Government has not changed.

c. Failure of Legislation for the settlement of the Japanese military sexual slavery

Due to the national nature of Japanese military sexual slavery being of systematically mobilizing women from occupying nations into sexual slaves for the military soldiers during wartime, and it being an institutional crime against human rights, it is evident that the solution also must be attained using official and legal measures at a national dimension.

Up till now, the Promotion of Resolution for Issues Concerning Victims of Wartime Sexual Coercion Act (Bill) was submitted several times to the Japanese Diet. This Bill was presented in 1996 for the first time but it was rejected due to the session closing. Hereafter the Japanese citizens and congenial members from the opposition party put much strenuous exertion in order to pass the Bill. However such effort of the legislative movement found it hard to make progress due to the Japanese Government's evading and indifference attitude to their responsibility and distortion of history. In addition the conservative nature of the Japanese media has always been an obstacle in passing the Bill during the period of more than 10 years. In June 2008, along with the extensive support from the opposition party in Japan, the Bill was submitted to the House of Councilors for the 8th time since 2002. Yet, similarly, this also failed to be lay before the National Assembly.

In 1993, the then Chief Cabinet Secretary partially admitted the involvement of Japanese military in the sexual slavery and announced official Kono Statement. At that time the Japanese Government should have urgently taken legislative settlement with follow-up measures. Article 2 of the Women's Convention also distinctly request legislative obligations to prohibit discrimination against women. Looking at the degree of damage the victims suffered as women and considering the need for emergency, Japanese Government's prompt legislative obligation is required. This is due to the fact that enactment of law is the preceding task for thoroughly examining the real facts of military sexual slavery institution. However the Japanese Government, along with the party in power has been openly using the matters of constitutional problem as reasoning to reject the Bill laying before the National Assembly. Therefore, the failure of law enactment, together with the conservative decisions the judicature has been making, has ultimately been structural obstacles in settling the issue hereby the suffering of the victims is unceasing.

Recently in Japan, there has been a growing number of campaigns across the nation objecting the insincere correspondence of the Japanese Government regarding this matter and pressing for rightness in solution. Women and citizens, in correspondence with a member of their municipal assembly, are acting to the legislative movement which claims to adopt resolution to request the Japanese Government to settle the issue of “comfort women.” Starting with the municipal assembly of Takarazuka in March 2008, other seven cities including Kiyose, Sapporo, Hukuoka, Mino, Mitaka and Koganei approved the resolutions to demand the Japanese Government to deal with the issue more sincerely. The citizen’s protest for passing the resolutions of municipal assembly is spreading actively in each area of Japan. These resolutions contain proposals that the Japanese Government must accept the recommendations made in resolutions adopted by the international assembly and the UN organizations, conduct an official apology, provide legal compensation and teach the truth of history in their text books.

Such efforts confirm that it is not only the victims who want the military sexual slavery issue settled but it is also the people of their own country in desire to lose the stigma as the offending country against human rights and violence against women as soon as possible. Having the Japanese Government settling the issue by making a legislative effort is a way of responding to those women desiring for restoration of basic human rights and equal rights.

• **Denials and Distorted Utterance of Government Officials and Politicians**

Another point to focus on is the governmental officials and politicians’ constant and public denials and their defamation of the victims. The Japanese Government took the position of completely denying the responsibility related to military sexual slavery at first. However, confronted with evidence, in August 1993, the Japanese Government admitted the Japanese military involvement through that Kono Statement by the then Chief Cabinet Secretary Yohei Kono: ‘the then Japanese military was, directly or indirectly, involved in the establishment and management of the comfort stations and the transfer of comfort women ... in many cases they were recruited against their own will, through coaxing, coercion, etc., and that, at times, administrative/military personnel directly took part in the recruitments.’ However, the Statement did not comprise of any promise to settle the issue or to fulfill legal responsibilities.

And yet, in reaction to the growing demands of the international community of the Japanese Government to settle the military sexual slavery issue, there have been further attempts to deny and degrade the principles of the Statement led directly by Cabinet members making opinions and movements. In particular, when the resolution urging the Japanese Government to apologize was submitted to the House of Representatives of Foreign Affairs Commission of US in March, the then Prime Minister of Japan, Abe Sinjo, made a statement that ‘there is no evidence that there was coercion’.⁴ In addition, a few days later, the Japanese Diet publicly stated the resolution from US does not have substantive foundations’ and that even if the resolution is adopted there will be no apologies made.⁵ In the space of a month, the Japanese right wing Cabinet publicly requested a modification of the Kono Statement.⁶ Moreover in June, Japanese Liberal Democratic Party members and personnel of various fields published in the ‘Washington Post’, that ‘no historical document has ever been found by historians or research organizations that positively

demonstrates that women were forced against their will into prostitution by the Japanese army ... They were working under a system of licensed prostitution.⁷⁷ This has once more tainted the reputations of the victims involved. However, despite the defamation of the victims, the Japanese Government have vehemently and constantly denied these accusations.

This does not only create the problem of distorting the true nature of the “comfort women” issue, but is also causing a stir in Japanese society as these statements are repeatedly made by apparently reliable Government officials. The consequential harm is weighted on the victims above all things. In the CAT session of 2007, it was stated that ‘the survivors of the wartime abuses, acknowledged by the State party representative as having suffered “incurable wounds”, experience continuing abuse and re-traumatization as a result of the State party’s official denial of the facts, concealment or failure to disclose other facts, failure to prosecute those criminally responsible for acts of torture, and failure to provide adequate rehabilitation to the victims and survivors.’⁸ Furthermore, the resolution of the US House of representatives which was adopted on the 30th July 2007, along with each nation’s resolutions, has requested the Japanese Government to publicly refute such statements of denial. However the Japanese Government has not taken as measures regarding this request.

- **Violation of Article 6 (to take appropriate measures to suppress all forms of traffic in women and exploitation of prostitution of women)**

During the Second World War, when Japanese Government was operating the military sexual slavery system, Japan was already a member of International Convention for the Suppression of the Traffic in Women and Children. However, due to the Japanese Government’s denial of being in violation of the international law, there has been no effort made to fulfill the responsibility to settle the issue after violating the Convention. The Japanese national crime of traffic in women and exploitation of prostitution of women committed for the purpose of engaging in war must be settled as soon as possible even for the sake of prohibiting exploitation of women occurring in present times. Due to the Japanese Government failure in making an effort to settle the issue or to punish the perpetrators after the sexual slavery crime took place, the victims are continually suffering. The Japanese Government is at a state where there has been no progressive measures taken in the judicature and the legislative level, which therefore is also prohibiting to engage in fundamental and preventable measures in human traffic and prostitution of women. This therefore brings a judgment that the Japanese Government is abandoning the responsibility over Article 6 of the Convention.

In particular, there are concerns that these crimes, which resemble the Japanese military sexual slavery, can reoccur to women in occupied territories with the gradual growth of militarization in the international world at the present time. Given the noticeable efforts made by the international community to exile all forms of traffic in women and exploitation of prostitution of women, it is clear this problem is a concern to the interests of humanity. Above all, the military armament of Japan, is raising dissension amongst countries in close circumference and understandably potentially dangerous.

- **Absence of promoting social awareness and effort**

The Japanese Government's attitude of considering the military sexual slavery as a past issue merely has failed to stimulate them to pursue effort to settle the problem. This is an important factor which results in promoting and perpetuating the perception and biased view of women in Japanese society. The exploitation of sex and commercializing sex, particularly in pornography, raises deep concerns about Japan. The recent issue relating to a video game containing rape scenes of under aged girls in the subway re illustrates these fears. This has brought about mass criticism and concern from the international community, creating protest and motions to prohibit the distribution and use of the game.⁹ Although it may be difficult to see a direct causal relationship in this example, the fact that there has been no effort to settle the issue of military sexual slavery, reflects the Japanese society as one failing to promote human rights and actively discrimination against women as a society. Solving the problem of the "comfort women" issue, conducting relevant official education and making an effort in promoting social awareness can be the first step of removing traditionally wrong conception and prejudiced view of women. The Japanese government must take appropriate measures on the ground of Article 5(a) of the Convention.

- **Distorting and underestimating the facts and details in the Education field**

The record of the war crime committed by the Japanese Government during the Second World War has been deleted in the Japanese history text books increasing serious concern of not only the Asian victim countries, but also of the international society. By identifying the legacy and dangers of war and educating to prevent any repeat of the war or related atrocities to the future generations is an important task for the Japanese Government to fulfill both as a war crime nation and a member of the UN Human Rights Council holding a peace duty. However, Japan's attitude in describing matters of the military sexual slavery in the history text books has completely disappointed such expectations.

Educating the future generations through writing correct war records in the history text books was one of the requests from the victims and support organizations after the crime of Japanese military sexual slavery was publicly revealed through testimony of the victims. Thereupon, there has been writings of Japanese military sexual slavery in parts of Japanese high school text books used since 1994 and in middle school text books since 1997. However the structural movements to glorify the history of Japanese colonization and their pillaging exploits prevailed eventually with the deletion and swift reduction of literature about "comfort women". As a result, since 2002, most text books do not contain the records of Japanese military sexual slavery or there have been attempts to deliberately obscure the writings with regard to the Japanese military involvement and responsibility, coerced mobilization and problems involving compensation.

In April 2009, the Japanese Ministry of Education passed official approval of another textbook that was deleted 'comfort women' issue and distorted war crimes again. This brought about a severe objection from Korea and other related countries. Apart from

writing, Japanese Government is responsible for the approval and adoption of textbooks. Therefore it is another indicator that shows not only position of Japanese Government but also their will. The Japanese military sexual slavery is an important case which must be dealt with in order to educate the future generations about the war and women rights. As evident in the resolutions adopted by each national assembly requesting correctness in recording the history of the Japanese military sexual slavery and educating the truth to the masses, this is an important matter that concerns the international community as a whole.

- **Recommendation**

The Japanese Government must fulfill the following requests based on the Women's Convention and international obligations regarding the military sexual slavery.

1. Identify, prosecute and punish perpetrators involved in the establishment of the "comfort stations" and in the recruitment of the "comfort system".
2. Thoroughly examine the documentations of the "comfort system" and relevant data in order to fully comprehend the regions, scale and real damages of the "comfort station", and release all data open to the public.
3. Remove laws and social barriers that prohibit the recovery of the victim's rights and provide legal and procedural solutions. In particular, the Government of Japan, along with the members of assembly, must sincerely make efforts to adopt the resolution that would settle the issue of "comfort women".
4. Make efforts to educate the future generation and the public masses with correct records of history in textbooks about the military sexual slavery and to work on preventing its reoccurrence.
5. The Japanese Government must firmly refute and tackle the movements that are in denial of Governmental involvement or are distorting the fundamental facts about the Japanese military sexual slavery to impair the reputation of victims.
6. Educate the public masses, diversely and efficiently, the truth and the origin of the military sexual slavery crime to form a part of an effort to eradicate violence against women.
7. Contrive an effective plan to raise social awareness about the issues of military sexual slavery and violence against women; make a concrete effort such as constructing monuments and museums in memory of victims of the military sexual slavery to firmly establish and accede the awareness to prevent the history reoccurring.

General Recommendation No. 19

The Japanese Government's obligation of Japan's military sexual slavery is emphasized in General Recommendation No. 19 which determined the violence against women and concretize the obligations which the countries that agreed to the Conventions. Paragraph 7 of this recommendation, with having its ground on the international law and Convention of human rights specifies the rights of Women as follows:

7. *Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights Conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include:*

(a) The right to life;

(b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment;

(c) The right to equal protection according to humanitarian norms in time of international or internal armed conflict;

(d) The right to liberty and security of person;

(e) The right to equal protection under the law;

(f) The right to equality in the family;

(g) The right to the highest standard attainable of physical and mental health;

(h) The right to just and favorable conditions of work.

8. *The Convention applies to violence perpetrated by public authorities. Such acts of violence may breach that State's obligations under general international human rights law and under other Conventions, in addition to breaching this Convention.*

In particular the rights specified in Article 7 (b) and (c) holds direct connection to the treatment and suffering the victims received during the procedure of recruitment and in the “comfort station”. Furthermore, Article 6 describes the danger of violence against women under human traffic as follows:

13. *States parties are required by article 6 to take measures to suppress all forms of traffic in women and exploitation of the prostitution of women.*

16. *Wars, armed conflicts and the occupation of territories often lead to increased prostitution, trafficking in women and sexual assault of women, which require specific protective and punitive measures.*

Moreover, the obligations as a state party to the Convention are being requested through the special recommendation as follows:

24. *In light of these comments, the Committee on the Elimination of Discrimination against Women recommends:*

(a) States parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act;

(b) States parties should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity. Appropriate protective and support services should be provided for victims. Gender-sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the Convention;

(c) States parties should encourage the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence;

(d) Effective measures should be taken to ensure that the media respect and promote respect for women;

(e) States parties in their report should identify the nature and extent of attitudes, customs and practices that perpetuate violence against women, and the kinds of violence that result. They should report the measures that they have undertaken to overcome violence, and the effect of those measures;

(f) Effective measures should be taken to overcome these attitudes and practices. States should introduce education and public information program to help eliminate prejudices which hinder women's equality (recommendation No. 3, 1987);

(g) Specific preventive and punitive measures are necessary to overcome trafficking and sexual exploitation;

(h) States parties in their reports should describe the extent of all these problems and the measures, including penal provisions, preventive and rehabilitation measures, that have been taken to protect women engaged in prostitution or subject to trafficking and other forms of sexual exploitation. The effectiveness of these measures should also be described;

(i) Effective complaints procedures and remedies, including compensation, should be provided;

...

(k) States parties should establish or support services for victims of family violence, rape, sex assault and other forms of gender-based violence, including refugees, specially trained health workers, rehabilitation and counseling;

...

(t) That States parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including, inter alia:

(i) Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including,

inter alia, violence and abuse in the family, sexual assault and sexual harassment in the workplace;

(ii) Preventive measures, including public information and education programs to change attitudes concerning the roles and status of men and women;

(iii) Protective measures, including refuges, counseling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence;

...

(iv) That States parties should report on all forms of gender-based violence, and that such reports should include all available data on the incidence of each form of violence, and on the effects of such violence on the women who are victims;

(v) That the reports of States parties should include information on the legal, preventive and protective measures that have been taken to overcome violence against women, and on the effectiveness of such measures.

...

As described above, in response to such Articles, the Japanese Government is still in violation of the Convention by failing to fulfill the national responsibilities and failing to admit the responsibility and distorting the truth which continually impairs the reputations of the victims. In order to eradicate violence against women, the Japanese Government must eliminate the obstacles including policies and laws that are preventing the settlement of the military sexual slavery.

The Japanese Government Report and the Asian Women's Fund

It is evident from the ways in which the Japanese Government have dealt with the issue of "comfort women" that there is no fundamental will to settle this issue. According to the sixth Government report submitted by the Japanese Government ahead of the forthcoming 44th session, the authorities are repeating their pre-existing position by showing no change of their grounds but only making a brief reference about the Asian Women's Fund (AWF or the Fund) and expresses exerted efforts.

However, although it may be said that it had been sponsored by the government, the activities of the AWF had not been taken in the name of the State of Japan. This evidently shows that the establishment of the AWF did not have its grounds on taking legal responsibility for Japan's actions of national crime. Due to such nature of the Fund, many survivors rejected this monetary gesture 'feeling insulted' (Survivor *Kim, Bok-dong*)¹⁰ and expressed resentment requesting 'justified and lawful compensation in proportion to the crime.'¹¹ As the AWF neglected the requests of the victims and unilaterally proceeded and ended their objectives, it is no longer possible for the Japanese Government to insist that the AWF is significant evidence to prove their hard worked efforts to settle the issue of "wartime comfort women".

It has been said clearly by the reports of Radhika Coomaraswamy and Gay J. McDougall that this fund by no means can be a replacement of an official and legal compensation. Furthermore in 2000, the judges of The Women's International War Crimes Tribunal for the Trial of Japan's Military Sexual Slavery (Women's Tribunal) also made a legal judgment that 'the Asian Women's Fund does not constitute an acceptable mechanism for compensation victims for the wrongs inflicted by the state.'¹² The ILO CEACR also show concern about the nature of the fund and is repeatedly recommending the Japanese Government to find the ways and means to compensate the victims in a manner that will meet their expectations.¹³

The Fund not only had its limits due to its origins not having the basis for taking legal responsibility, but also encouraged distrust between the victims and the support organizations by providing funds using a 'secretive' method to the victims instead of providing it officially through the support organizations. Moreover, it also had the problem of only providing the medical support service for the victims who received the funds, and none was provided to other victim countries such as North Korea, China and East Timor so on.

The Japanese Government presented their positive outcome through the AWF in the CEDAW session in 2003. However the unjust nature of the Fund has been reported by the NGOs. As a result, the Committee recommended the State party endeavor to find a lasting solution for the matter of "wartime comfort women."¹⁴ However, the disappointment continues as the Japanese Government report shows no progress with regards to this issue.

The observation the Japanese Governments such reluctant, it inevitably makes one question the Japanese Government's will to settle the issue of "comfort women". Despite the lodged concern that the Fund is merely a way of evading the legal responsibility of compensation, the Japanese Government unilaterally established the Fund, enforced to provide and is constantly using the AWF as a way to 'save face' from the responsibility they hold in the international community. These features only re-illustrate the doubt of Japanese Government's real intentions.

In 2006, the UN General Assembly adopted "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law" and it includes the obligation to promise not to repeat the same harm, as well as compensating, as a nation, the victims in a manner that will meet their expectations.¹⁵

Japanese Failure to Fulfill International Obligations and Denial of the Responsibility

The Japanese Government has been constantly denying the legal international responsibilities proposed by the recommendations and requests from the UN and the international community regarding the Japanese military sexual slavery. In May 2008, such position taken by the Japanese Government has been re-illustrated in the review of Japan during the process of UN Human Rights Council's UPR. During Working Group, countries including South and North Korea, France, Netherland, China and

Philippine requested to the Japanese Government to immediately take responsible measures regarding the “comfort women” issue.¹⁶

As a response to this, the Japanese Government took the position of (i) it has made apologies and remorse since August 1993; (ii) the issue of reparation and claims had been settled by the San Francisco peace treaty and other relevant bilateral treaties; and (iii) the activities of the Asian Women’s Fund(AWF), as funded by Japan, provided a kind of remedies delivering the ‘sympathy of the Japanese people’ represented by the AWF.¹⁷

The UN organs have constantly brought forth a counterargument to such repeated position taken by the Japanese Government.

For example, Gay J. McDougall recommended that ‘the Japanese Government remains liable for grave violations of human rights and humanitarian law, violations that amount in their totality to crimes against humanity’, ‘anything less than full and unqualified acceptance by the Government of Japan of legal liability ... is wholly inadequate.’¹⁸

The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance by Doudou Diène also showed concern about this issue;¹⁹ the CEDAW and the CESCR recommended the Japanese Government to find the ‘lasting solution.’²⁰ As mentioned earlier, the ILO Committee of Experts on the Application of Conventions and Recommendations also constantly recommended that the international obligations must be implemented.

In 2000, the Women’s Tribunal made the judgment of Japanese Government as follows:

“The Tribunal holds that in order to fulfill its responsibility, the Government of Japan must provide each of the following remedial measures:

1. Acknowledge fully its responsibility and liability for the establishment of the “comfort system”, and that this system was in violation of international law.
2. Issue a full and frank apology, taking legal responsibility and giving guarantees of non-repetition.
3. Compensate the victims and survivors and those entitled to recover as a result of the violations declared herein through the Government and in amounts adequate to redress the harm and deter its future occurrence”(Para. 1086).

The 1993’s Kono Statement, which was presented by the Japanese Government as evidence that they have made an ‘apology’, was not admitting the complete responsibility and neither was did they apologize to the victims individually. Furthermore, there are attempts to deny or degrade the principles of the Statement leaded directly by Cabinet members making opinions and movements, which once more tainted the reputations of the victims involved. It is a contradiction to hold the attitude of using the Kono Statement as the grounds of an argument that the apology has been made while the position of the Statement has not even been fully acceded. The letter of apology from the Prime Minister along with the AWF was also only

given to those victims who accepted the donations from the Fund, which means it is difficult to amount this as a measure of apology.

Also, over the issue of whether or not the legal responsibility of the Japanese Government has been resolved by the treaties drawn after the war, Even if the fact that there may were differences and disputes between the countries involved when analyzing and applying the treaties, it is obvious that Japanese Government's efforts to make itself understood was insincere and passive. The position taken by the Japanese Government can be seen by their rejection of attending the tribunal in 2000, and requesting pertinent international court to make a judgment.

The position taken by the Japanese Government of not accepting the series of recommendations made by the UN and the international community for over ten years is well illustrated by the Japanese National Assembly's reply to the question regarding to fulfill the UN recommendation. In January 2009, the member of the House of Councilors of the Democratic party, Tanioka ikuko, submitted a written enquiry²¹ to the Japanese Government urging them to confront the issues that were requested from the CCPR in October 2008 which included an apology and taking legal responsibility for the atrocities.²² In response, the Japanese Government said the UN recommendation lacks legal binding power and for the question of related measures in compliance with the international community, the same response was made. In addition, the proposition to include the Kono Statement into the history textbooks has been evaded where they delegated responsibility to the writers.²³ In the end, the Ministry of Education deleted the military sexual slavery content in the textbooks and these obscure texts were granted official approval from the authorities. This action has not only received considerable criticism but is also of concern to those in the international community.

On the 14th June 2007, when they had the vote for the resolution regarding the Japanese military slavery at the US House of Representatives, 63 leader figures including the Japanese members of the National Assembly published in the 'Washington Post', that 'no historical document has ever been found by historians or research organizations that positively demonstrates that women were forced against their will into prostitution by the Japanese army ... They were working under a system of licensed prostitution,'²⁴ showing general disobedience to the Statement.

Moreover, the CAT concluded that the following report submitted regarding the 2007 report²⁵ after Japanese consideration was insufficient. In May 2009, the Japanese Government was requested to provide further additional information and also demanded management of the solution about the failure to prosecute the perpetrators who are responsible and the re-traumatization suffered by the victims.²⁶

The Government of Japan repeating to take the same position as response to the requests from international community such as recommendations from the UN and Resolutions from each nation make one question the attitude of Japanese Government as UN Human Rights Council Member State and as a nation that ratified the Women's Convention. Furthermore, the insincere manner of reporting and failing to take measures to on settling the issue is contradictory to the reply made in 2008 in the UPR Working Group: 'The Government expressed its readiness to continue to have a dialogue with the treaty bodies on this issue.'²⁷ Japanese Government must fulfill the

responsibilities at a soonest time when at least one more victim is alive amongst very little surviving.

- **Recommendations**

The Japanese Government must fulfill the following requests under the international obligation:

1. Admit the establishment of the “comfort stations” and the recruitment of the “comfort system” is in violation of the international law and further clearly admit the responsibility.
2. Make an official and sincere apology to the victims of the “comfort system” by clearly and completely admitting the national responsibility.
3. Pay legal compensation to the surviving victims and the families of the deceased victims in accordance to the international law and recover the impaired reputation of the victims in a manner that will meet their expectations
4. Accept the recommendations from the UN and Resolutions from the international community, fulfill the international legal obligations and promise the prevention of such issue relapse.

International Women’s Movement for Recovery of Human Rights of the Victims of Japanese Military Sexual Slavery

The requests of the victims, which has been active for the last 18 years, has expended as the requests of the international community. In 2008, 63 years passed since the end of the Second World War, countries including Netherland, Canada, Germany, Australia, Republic of South Africa, US, Taiwan, Philippine, Korea and Japan founded the International Day of Solidarity for Comfort Women for the purpose to settle the issue of “comfort women”. They requested the Japanese Government to promptly recover the rights of the victims from the issue by holding demonstration, photo exhibitions and film festivals.

In 2005, the Amnesty International recommended the Japanese Government to apologize and pay legal compensations to the victims after releasing an investigation report regarding the “comfort women” issue. Furthermore the Amnesty brought the assembly public hearing, which was participated by the survivals from Korea, Taiwan and Netherlands, and the speaking tour campaign into success. This happened when they were leading each country to adopt the Resolution followed by in November 2008 when the Resolution was adopted by the EU Parliament.

Asian women are constantly holding solidarity conferences to request the Government of Japan to fulfill the recommendations from the international community and are also resolving the solidarity movement. During 23rd, 24th and 25th of November 2008, the 9th of Asia Solidarity conference was held in Tokyo with victims and women from 12 different countries to discuss and determine the concerns about the approval of the Bill in the Japanese National Assembly and Japanese Government’s need to settle the issue.

In World Women's Day and International Day Against Violence Against Women, NGOs and surviving victims from each nation are holding various campaigns to request the Japanese Government to settle the issue and to stop violence against women. Moreover, there has been devotion of efforts to put the words into action by events such as the world conference which was held in LA, USA, which focused to settle the issue of "comfort women".

The movement to settle the issue of "comfort women" is receiving attention from those victims who suffered from violence against women in countries such as Africa and Afghanistan. This issue will be a representing case for them; therefore the issue of "Comfort Women" must be resolved successfully.

The international movement for the women rights will be constant until the Japanese Government accepts the requests of the international community and the victims. We sincerely hope that CEDAW will progressively lead the way for the efforts made so far.

The State of the Victims and the Urgent Need for Settling the Issue

There is only extremely few number of surviving victims of the Japanese military sexual slavery. In Korea's case, 14 victims died in 2008 alone and in average, more than 10 victims pass away every year. Out of those 234 victims who were registered by Korean Government since 18 years ago when NGO of Korea first started the movement to settle the issue of "comfort women", only 91 victims survived till present time of June 2009. Those surviving victims are all in their 80s and 90s fighting to pull through the remaining days of their lives with weak health. The activists who are by the surviving victims' sides go through desperate tension every day. Such victims' state is also true in regions of Asia such as Philippine, Taiwan and Indonesia and the number of deceased victims is increasing every month.

However, the survivors remain unchanged in not giving the hopes up. Every Wednesday, whether it is a hot summer day or a cold winter day, those survivors attend that Wednesday Demonstration held in front of the Japanese Embassy in Seoul since 1992. They request the Government of Japan to apologize and compensate and remind the future generations they meet in the demonstration to never repeat such painful tragedy by remembering the past history rightly.

The only request they have is the Japanese Government to urgently apologize to and pay legal compensation and make affirmation that such crime will be never repeated. Through this, we expect the recovery of impaired reputation of victims realized, to give hope to those victims in constant pain under the war crime and to teach the people who are committing a similar crime a strict lesson.

The UN Human Rights Council, the organizations under human rights Conventions, many different countries' assemblies and governments and even the municipal assemblies of Japan have adopted the Resolutions that requests the Japanese Government to apologize and resolve the "comfort women" issue and hoped for the recovery of victim's dignity. The Government of Japan must accept the state responsibility regarding the issue of "comfort women" and promptly take progressive

measures to realize the rights of the victims by responding to the requests of the international community.

¹ Beijing Declaration and Platform for Action, Fourth World Conference on Women, 15 September 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995), paragraph 145.

² The Women's International War Crimes Tribunal For the Trial of Japan's Military Sexual Slavery, *The Prosecutors and the Peoples of the Asia-Pacific Region v. Hirohito et al.*, Judgment, 4 Dec. 2001, paragraph 137.

³ Final report on Systematic rape, sexual slavery and slavery like practices during armed conflict, submitted by Special Rapporteur Ms. Gay J. McDougall, 1998, paragraph 63.

⁴ *Abe questions sex slave 'coercion'*, BBC News, available at <http://news.bbc.co.uk/2/hi/asiapacific/6411471.stm>.

⁵ *No Apology for Sex Slavery, Japan's Prime Minister Says*, The New York Times, available at <http://www.nytimes.com/2007/03/06/world/asia/06japan.html>.

⁶ *Japan's conservatives are spitting in face of democracy*, The Hankyoreh, available at http://english.hani.co.kr/arti/english_edition/e_editorial/193860.html.

⁷ *Japanese MPs deny comfort women*, The Australian, available at <http://www.theaustralian.news.com.au/story/0,20867,21909959-1702,00.html>.

⁸ UN Doc. CAT/C/JPN/CO/1/para24.

⁹ The original is available at http://www.equalitynow.org/english/actions/action_3301_en.html, <http://www.publications.parliament.uk/pa/cm/cmmedm/90402e01.htm>.

¹⁰ Haryong Ahn.(Director),(2006).*History That Can't be Erased*[Film], The Korean Council for the Women Drafted for Military Sexual Slavery by Japan.

¹¹ *The 4th Asian Solidarity Conference Report*, 1996, The Korean Council for the Women Drafted for Military Sexual Slavery by Japan.

¹² The Women's International War Crimes Tribunal For the Trial of Japan's Military Sexual Slavery, *The Prosecutors and the Peoples of the Asia-Pacific Region v. Hirohito et al.*, Judgment, Para 988.

¹³ E.g., CEACR, Individual Observation concerning Convention No. 29, Forced Labour, 1930, Japan, 1997; *ibid.*, 1999; *ibid.*, 2001; *ibid.*, 2007; *ibid.*, 2008, *ibid.*, 2008.

¹⁴ UN Doc. A/58/38, paras.337-378.

¹⁵ See GA Res. 60/147, Annex, 21 March 2006, para. 22.

¹⁶ UN Doc. A/HRC/8/44.

¹⁷ *Ibid.*

¹⁸ UN Doc. E/CN.4/Sub.2/1998/13, Appendix, para, 68.

¹⁹ UN Doc. E/CN.4/2006/16/Add.2.

²⁰ Report of the Committee on the Elimination of Discrimination against Women, Twenty-eighth session (13-31 January 2003), Twenty-ninth session (30 June-18 July 2003), General Assembly Official Records, Fifty-eighth Session, Supplement No. 38, UN Doc. A/58/38 (2003), p. 135; E/C.12/1/Add. 67, paras. 26, 53.)

²¹ The original is available at <http://www.sangiin.go.jp/japanese/joho1/kousei/syuisyo/171/syuh/s171001.htm>.

²² UN Doc. CCPR/C/JPN/CO/5.

²³ The original is available at

<http://www.sangiin.go.jp/japanese/joho1/kousei/syuisyo/171/touh/t171001.htm>.

²⁴ *Japanese MPs deny comfort women*, The Australian, available at <http://www.theaustralian.news.com.au/story/0,20867,21909959-1702,00.html>.

²⁵ UN Doc. CAT/C/JPN/CO/1/Add.1.

²⁶ The original is available at

http://www2.ohchr.org/english/bodies/cat/docs/request_further_information_Japan_CAT38.pdf

²⁷ UN Doc. A/HRC/8/44, para45.